

## Mazda Must Face Design Defect Suit, Says Fla. Appeals Court

By **Jonathan Capriel**

Law360 (March 15, 2023, 10:21 PM EDT) -- Mazda Motor Corp. must face strict liability claims in a suit brought by the mother of a Miami man who was killed after his Mazda was rear-ended and burst into flames, a Florida appeals panel ruled on Wednesday in a split decision, saying the trial judge was "eminently correct" when finding state courts have jurisdiction over the Japan-based company.

The Third District Court of Appeal panel rejected Mazda Motor Corp.'s claims that it did not establish the minimum business contacts with Florida, pointing to numerous actions it undertook to avail itself to the market.

"If not Florida, what market were these actions of Mazda Japan intended to reach?" asked Judge Thomas Logue, who wrote the majority **opinion** for the panel. "Put another way, if not to serve the state's market, what was the purpose of Mazda Japan designing vehicles for, shipping vehicles to, and continuing to provide technical support in the form of recalls for its vehicles owned in Florida? Whatever other markets Mazda Japan was targeting, these circumstances support a reasonable inference that Mazda Japan targeted its vehicles toward Florida."

The ruling affirms a trial court's order which denied Mazda Motor Corp.'s motion to dismiss claims against it brought by Lourdes Triche, the parent and representative of the estate of Alexandre Arrata Acevedo. Triche claims her son would have survived the April 2017 collision had it not been for Mazda's poor design.

"We conclude that the trial judge was eminently correct in finding that the jurisdictional allegations and facts in this case support a determination that Mazda Japan had sufficient contacts with Florida for a Florida court to assert personal, case-specific jurisdiction in this matter," Judge Logue said.

But Judge Fleur J. Lobree dissented, believing the company hadn't actually targeted the Florida market. Judge Lobree said much of the evidence Triche pointed to, which appears to show Mazda targeting Florida, was incidental or not actually directed at the state.

According to the lawsuit, Acevedo was stopped at a red light in his 2016 Mazda3 Sport. While there, a Toyota Camry driven by Rodrigo Jose Solorzano came behind Acevedo and hit his vehicle from behind.

"The [Mazda3] immediately exploded and/or erupted into flames," an amended complaint said. "As a direct and proximate result of the collision, [Acevedo] was killed while inside the vehicle."

Two months after her son's death, Triche sued the Camry driver and the vehicle's owner, Ricardo Jose Solorzano, accusing them both of negligence.

Her amended complaint, filed in 2019, named as defendants the U.S. subsidiary Mazda Motor of America Inc.; the Hiroshima, Japan-based parent company and the South Florida dealership that sold the vehicle. She added claims of strict liability and negligence as it relates to the design or assembly of the vehicle which lead to a defect.

"The subject vehicle was defective and reasonably dangerous because it was designed, manufactured, tested and/or assembled without a fuel system that can adequately withstand a survivable accident without resulting in a fire and/or explosion, including the subject crash," the

lawsuit said.

The U.S. subsidiary told the trial court that it cannot hand over any design or blueprints for the 2016 Mazda3 Sport during discovery because all of those documents belong and exist with the parent company. At the same time, the Mazda company in Japan asked the court to allow it out of the case, arguing that it never actually targeted Florida, advertised in the state or provided regular support for customers.

Notably, a Mexico-based company, Mazda Motor Manufacturing de Mexico, produces the cars which it then sells to Mazda Japan, which then turns around and sells them to the U.S. subsidiary.

It argued that the U.S.-based company does the selling and advertising to the American and Florida market, while the Japanese company does not advise the domestic firm in these matters and both have unique and independent corporate structures.

But the panel said that this argument was undercut by a number of U.S. and Florida-focused actions. This included shipping nearly 500 vehicles to Florida from 2006 to 2020. The Japanese automaker is also the owner of a number of advertising and marketing phrases, registered with the U.S. Patent and Trademark Office, which targeted American audiences, such as the "Zoom-Zoom" phrase, which was a campaign launched in the late aughts.

Moreover, the Hiroshima-headquartered design teams developed cars that complied with U.S. auto regulation.

In terms of population, as the "third largest state in the U.S. and presumably the third largest car market," the panel said it was highly improbable that Mazda didn't have Florida in mind.

"Mazda Japan — not its American subsidiary — developed lines of vehicles, including the subject vehicle, for the U.S. market," the panel said. "Mazda Japan — not its American subsidiary — in its annual reports, states its goals for sales in the U.S. Mazda Japan — not its American subsidiary — announced its plans to improve the Mazda sales force, Mazda franchises, and Mazda marketing strategy 'adapted to the characteristics of the U.S. market,' which, it announced was 'crucial for Mazda Japan.'"

Judge Lobree's dissent, on the other hand, said that sales documents that Triche relies on were part of Mazda's global strategy to sell 400,000 cars worldwide, and not Florida specifically. Likewise, "Zoom-Zoom" and other marketing phrases weren't directed solely to the state, so who owns them doesn't matter, she said.

While the shipping of hundreds of cars to the state would appear to be the most "compelling evidence" in Triche's case, there is little proof that the Japanese company "directed that the vehicle be offloaded at the Port of Jacksonville, or anywhere in Florida," Judge Lobree said.

Neither party immediately responded to a request for comment.

Judges Thomas Logue, Norma S. Lindsey and Fleur J. Lobree sat on the panel for the Third District Court of Appeal of Florida.

Mazda is represented by Stephanie M. Simm, John C. Seipp Jr. and Daniel A. Rock of Bowman and Brooke LLP.

Triche is represented by Julie H. Littky-Rubin of Clark Fountain La Vista Prather Littky-Rubin & Whitman and Ian D. Pinkert, Jay Halpern and Jacqueline Halpern of Halpern Santos & Pinkert PA.

The case is Mazda Motor Corp. et al. v. Lourdes Triche, as the personal representative of the estate of Alexandre Arrata Acevedo et al., case number 3D21-803, in the Third District Court of Appeal of Florida.

--Editing by Dave Trumbore.

